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FEDERAL COMMUNICATIONS COMMISSION  
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ALLTEL Service Corporation  
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January 10, 1994

Mr. William F. Caton  
Acting Secretary  
Federal Communications Commission  
1919 M Street NW, Room 222  
Washington, DC 20554

RE: In the Matter of Amendment of Parts 32 and 64 of the Commission's Rules to Account for Transactions between Carriers and Their Nonregulated Affiliates  
(CC Docket No. 93-251)

Dear Mr. Caton:

Enclosed for filing on behalf of ALLTEL Service Corporation are an original and nine copies of its Reply Comments in the above-referenced proceeding.

Should there be any questions concerning this matter, please contact the undersigned counsel.

Sincerely,

A handwritten signature in black ink, appearing to read "Carolyn Hill". The signature is fluid and cursive.

Carolyn C. Hill  
Federal Regulatory Counsel

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Enclosures

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Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554

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In the Matter of )  
 )  
Amendment of Parts 32 and 64 of the ) CC Docket No. 93-251  
Commission's Rules to Account for )  
Transactions Between Carriers and )  
Their Nonregulated Affiliates )

**Reply Comments of ALLTEL Service Corporation**

ALLTEL Service Corporation, on behalf of its affiliated telephone operating companies (hereinafter "ALLTEL"), hereby submits its reply comments in response to the Commission's Notice of Proposed Rulemaking ("Notice"), FCC 93-453, released October 20, 1993, in the captioned proceeding.

In its earlier filed comments, ALLTEL opposed the rule changes proposed by the Commission because they would impose substantial costs and burdens on carriers, such as the ALLTEL companies, without comparable public benefits. Review of the comments filed on December 10, 1993, indicates agreement with this position by the vast majority of the other commenters.

As discussed in many of the comments, a basic weakness in the Commission's Notice is that the Commission has failed to establish the requisite reasoned analysis for its proposed rule changes. As pointed out in the Ameritech comments, consistent with applicable case law, before departing from its current rules, the Commission must be able to explain the benefits that will be derived from its rules and how the proposed changes are consistent with its current regulatory policies. However, the Commission has not fashioned such a justification. (Ameritech comments, p.6.) This concern is echoed in the comments of Southwestern Bell:

The NPRM now suddenly appears and, without giving any factual explanation other than pure speculation, proposes to scrap the affiliate transaction rules which the Commission and the industry have worked so hard to implement. The proposed scrapping of the existing rules is frustrating to the industry not only because of the years of work behind the adoption and implementation of the existing rules but also because the proposed rules are unnecessary, ambiguous, overly burdensome and costly in terms of implementation and compliance. (Southwestern Bell comments, p.1-2.)

Even in those limited instances in which some parties supported the Commission's proposals,<sup>1</sup> their comments fail to address the fact that the Commission had not provided the required reasoned explanation for the proposed rule changes. Indeed, the International Communications Association (ICA) recommends that the Commission provide more details and citations to support its conclusions that the current affiliate transaction rules need to be greatly strengthened (ICA comments, p.5.)

Moreover, as Southwestern Bell points out at pages 13-23 of its comments, the Commission, without any explanation, is now proposing to adopt certain valuation methods that it previously rejected in the Joint Cost Proceeding. Thus, the Commission proposes that carriers calculate both the fully distributed costs (FDC) and the estimated fair market value for services in those instances for which a tariffed rate or a prevailing price is not applicable. A carrier would then book the lower of the estimated fair market value and FDC for the services it receives and the greater of the two for the services it provides. However, the usage of fair market value was repudiated in the Joint Cost Proceeding by the Commission as being fraught with the potential for abuse and as being difficult to monitor. Nowhere in the Notice, though,

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<sup>1</sup> (See, for example, the comments of the Information Technology Association of America, the International Communications Association, and the Tennessee Public Service Commission.)

does the Commission explain how or why its previous concerns about the inherent flaws in the usage of estimated fair market value as a valuation standard are no longer valid.

Another fundamental weakness in the Commission's proposed rule changes discussed in the industry comments was the fact that the Commission has failed to demonstrate that the proposed rule changes are in the public interest.<sup>2</sup> There was also general agreement that the proposed rule changes would impose substantial costs on the carriers.<sup>3</sup> Moreover, the proposed rule changes would not, as discussed by Coopers & Lybrand in its comments, achieve the Commission's goal of having objective, auditable rules which has been accomplished up to now. (Coopers & Lybrand comments, p.2.) According to Coopers & Lybrand, the proposed change in the FDC "residual rule" will "add substantial difficulty to the carrier's affiliate transaction process and complexity and subjectivity to the audit process thereby diminishing the enforcement mechanism that the Commission has in place." *Id* at p.1. Coopers & Lybrand ultimately concludes that whereas the current rules facilitate the audit function, the proposed rules will "create a complete new layer of work to value services, make it far more difficult for companies to determine whether they are in compliance with rules, add complexity and subjectivity to the audit process and render the company and auditor conclusions subject to continued debate because the market valuation of services adds substantial subjectivity to the rules." *Id* at p.4.

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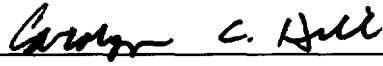
<sup>2</sup> See, for example, the comments of NYNEX pgs.1-7; USTA, pgs.1-8; U S West, pgs. 1-9; Pacific Telesis, p.23; Bell Atlantic, pgs. 7-10; BellSouth, pgs. 1-5; and SNET, pgs. 1-6.

<sup>3</sup> See, for example, the comments of Ameritech, pgs. 1-19; NYNEX, pgs. 12-19; USTA, pgs. 8-12; and SNET, pgs. 7-8.

In summary, ALLTEL submits that the proposed rule changes should not be adopted because as demonstrated in the comments submitted herein, they have not been shown to be in the public interest. The current affiliate transaction rules do, in fact, protect ratepayers and have resulted in ratepayer protection because the results can be monitored and verified through the audit process.

Respectfully submitted,

**ALLTEL Service Corporation**

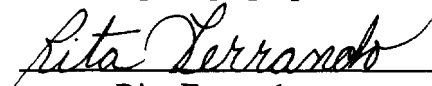
By:   
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January 10, 1994

Certificate of Service

I, Rita Ferrando, do hereby certify that on this 10th day of January, 1994, copies of the foregoing pleading were served by hand or by U. S. Mail, postage prepaid, on the following.

January 10, 1994

  
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